

REMARKS

This Preliminary Amendment is being submitted at the request of Supervisory Patent Examiner Amy Nelson and puts the claims in form for allowance. Applicant respectfully submits that this Preliminary Amendment will not unduly interfere with the preparation of the first Office Action.

The present application relates to canola line 45A55. Claims 3-42 have been canceled. Applicant acknowledges the addition of new claims 43 through 61, as agreed upon as allowable. The new claims do not add new matter as there is support for the claims in the originally filed specification. In addition, Applicant has amended the specification to clarify the deposit language. A copy of the ATCC deposit receipt is included in this response. No new matter has been added. Entry of this Preliminary Amendment and approval of the changes is respectfully requested.

In conclusion, Applicant submits in light of the above amendments and remarks, the claims as amended are in a condition for allowance, and reconsideration is respectfully requested. If it is felt that it would aid in prosecution, the Examiner is invited to contact the undersigned at the number indicated to discuss any outstanding issues.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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Attorneys of Record

# ATCC

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The American Type Culture Collection (ATCC) has received your deposit of seeds in connection with the filing of an application for patent. The following information is provided to fulfill Patent Office requirements.

**Name and Address of Depositor:** Pioneer Hi-Bred International, Inc.  
Attn: Steve Callstein  
7100 NW 62<sup>nd</sup> Avenue  
PO BOX 1000  
Johnston, Iowa 50131-1000

**Deposited on Behalf of:** Pioneer Hi-Bred International, Inc.

**Date of Receipt of Seeds by the ATCC:** December 5, 2003

<u>Scientific Description</u>	<u>Depositor's Reference</u>	<u>Patent Deposit Designation</u>
Canola Seed	45A55	PTA-5684

**The ATCC understands that:**

1. The deposit of these seeds does not grant ATCC a license, either express or implied, to infringe the patent, and our release of these seeds to others does not grant them a license, either express or implied, to infringe the patent.
2. If these seeds should die or be destroyed during the effective term of the patent, it shall be your responsibility to replace them with living seeds of the same type. It is also your responsibility to supply a sufficient quantity for distribution for the deposit term.

Prior to the issuance of a U.S. Patent, the ATCC agrees in consideration for a one-time service charge, not to distribute these seeds or any information relating thereto or to their deposit except as instructed by the depositor or relevant patent office. After a relevant patent issues, and we are instructed to release the seeds, they will be made available for distribution to the public without any restrictions.

The ATCC agrees to maintain the seeds for a period of 30 years from deposit date, or 5 years after the most recent request for a sample, whichever is longer.

We will inform you of requests for the seeds for 30 years from date of deposit.

The seeds were tested December 11, 2003 and were viable.

American Type Culture Collection

By Marie Harris  
Marie Harris, Patent Specialist  
ATCC Patent Depository

Date: December 23, 2003